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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION
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16 SECURITIES AND EXCHANGE COMMISSION,
17 Plaintiff,
18 vs.
19 BENJA INCORPORATED,
20 Defendant.
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Case No. 4:20-cv-08238-JSW

SECURITIES AND EXCHANGE
COMMISSION'S REPOSE TO ORDER TO
SHOW CAUSE

1 The Plaintiff Securities and Exchange Commission (“SEC”) hereby responds to the Court’s
2 Order (ECF 24) entered February 5, 2024 to show cause why this case against the remaining party,
3 Benja Incorporated (“Benja”), should not be dismissed.

4 The SEC filed this case against Benja and its founder, Andrew Chapin, but as described in the
5 Court’s Order, the Court entered final judgment against Chapin, by his Consent, in April 2022,
6 leaving Benja as the sole defendant.

7 Benja filed for Chapter 11 bankruptcy protection in October 2020, and its case was converted
8 to a Chapter 7 liquidation in December 2020 and a Chapter 7 trustee (the “Trustee”) was appointed.
9 *In re Benja Incorporated*, Case No. 20-30819-DM-7 (U.S. Bankr. N.D. Cal.). To limit expenditures
10 of limited assets, the Trustee informed the SEC, and the SEC informed the Court in its Case
11 Management Statement, that the trustee did not intend to actively litigate the SEC’s case against
12 Benja. ECF 16. In response to the Case Management Statement, the Court issued the Scheduling
13 Order, referenced in the Court’s February 5th Order, which set the pretrial schedule. ECF 17. Within
14 months of the Scheduling Order, the SEC filed the proposed Final Judgment as to Defendant Chapin,
15 which the Court entered on September 1, 2021. ECF 21. As a consequence, the SEC presumed that
16 the dates contained in the Scheduling Order were vacated, as those dates appeared to us to apply to
17 the litigation against Chapin. However, we should have informed the Court of our understanding and
18 sought the Court’s further guidance.

19 In the meantime, the SEC remained in contact with the Trustee in the bankruptcy case, in
20 order to most efficiently protect the SEC’s claim for “disgorgement” in this case. Further, the SEC
21 filed a proof of claim in Benja’s bankruptcy case, as described below. The SEC claims in this action
22 that Benja obtained ill-gotten gains from investors who were defrauded by Benja’s founder, Chapin.
23 Under these circumstances, an important remedy sought in this case is disgorgement by Benja of ill-
24 gotten gains that would include the amounts collected wrongfully from investors. If the SEC were to
25 recover such a judgment, it would likely seek to distribute money collected pursuant to that judgment
26 to harmed investors. The SEC filed a claim in Benja’s bankruptcy case to preserve the ability to
27 collect on any disgorgement order obtained here.

